<u>REMARKS</u>

Claims 1-59 are pending in this application. Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments, and the discussion that follows. Claims 1-59 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,707,821 to Shaffer et al. in view of U.S. Patent No. 6,741,586 to Schuster et al. and further in view of U.S. Pat. No. 6,845,105 to Olsson et al. Claims 1, 4, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been amended. After a careful review of the specification and claims (as amended), it has been concluded that the claims are allowable and, therefore, Notice of Allowance is respectfully requested.

Claims 1-59 have been rejected as being obvious over Shaffer et al. in view of Schuster et al. and Olsson et al. Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to call for user selected and predetermined packet priority (e.g. p. 5, lines 19-23) Claim 4 has been amended to call for random, non-uniformed size smaller pockets (see e.g. first paragraph p. 7 of application).

The Examiner asserts that Olsson et al. teaches predetermined priorities. However, rather than providing a teaching regarding user selected predetermined packet priorities, Olsson et al. is merely directed to packet processing within a packet network. In this regard, Olsson et al. explicitly states that "Packets 115, 116, and 117, for example, arrive at network layer 101 with different priorities as may be determined by the contents of, for

example, QoS information included with an IP header typically associated with each of the packets 115, 116, and 117 respectively" (Olsson et al., col. 5, lines 56-60).

Since priorities are assigned to packets (instead of data processing devices) and then based only upon the QoS information within the packet header. There is no basis for suggesting that Olsson et al. teaches assigning priorities to data processing devices nor is there user selection of priorities. This is necessarily true because packet priorities are based upon QoS.

For example, QoS would be determined from packet delays within the packet system. As such, the priority of the Olsson packets would change based upon the loading of the packet system or any of a number of other factors without regard to the user selection.

At best, Olsson et al. assigns priority to data packets based upon a QoS requirement. However, since QoS is a system parameter, the use of QoS ultimately causes the Olsson et al. priority to be based upon system loading. Since Olsson assigns priority based upon system loading, the Olsson system would not perform the method step of (or have apparatus for) assigning . . . a user selected predetermined second priority level to data packets from a first data processing device of the plurality of data processing devices and a user selected third predetermined priority level to data packets from a second data processing device of the plurality of data processing devices.

Since neither Shaffer et al., Schuster et al., or Olsson et al. teach or suggest the above features, the combination fails to teach each and every claim limitation. Since the combination fails to teach each and every claim

limitation, the independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 are distinguishable over the cited references and are therefore believed to be allowable. All the remaining claims are dependent upon the now allowable independent claims and are therefore also believed to be allowable.

In addition, dependent claims 2, 16, 27 and 51 further call for comparing data packets to a size threshold. The Examiner assert this would be obvious based upon Shaffer et al. However, Shaffer et al. does not disclose this feature, and in addition suggests otherwise by suggesting it is a system loading parameter which could trigger use of the fragmenter ("when the schedules 144 is having difficulty scheduling a large DP for transmission…" Col. 9, lines 10-12). Thus, claim 2, 16, 22 and 51 are believed to be allowable for this additional reason. Amended claim 4 is further distinguishable because none of the references disclose random, non-uniform size smaller packets.

3. Allowance of claims 1-59, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,

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